

AMITY, COMMERCE, AND NAVIGATION; EXTRADITION

Treaty and declaration signed at Naples October 1, 1855

*Senate advice and consent to ratification, with amendments, August 13, 1856*¹

*Ratified by the President of the United States, with amendments, August 20, 1856*¹

Ratified by the Two Sicilies October 10, 1856

Ratifications exchanged at Naples November 7, 1856

Entered into force November 7, 1856

Proclaimed by the President of the United States December 10, 1856

*Made obsolete in 1860 upon consolidation of the Two Sicilies with Italy*²

11 Stat. 639; Treaty Series 365

TREATY

The United States of America, and His Majesty the King of the Kingdom of the Two Sicilies, equally animated with the desire to strengthen and perpetuate the relations of amity and good understanding, which have, at all times, subsisted between the two countries; desiring, also, to extend and consolidate the commercial intercourse between them, and convinced, that nothing will more contribute to the attainment of this desirable object, than an entire freedom of navigation, the abolition of all differential duties of navi-

¹ The United States amendments read as follows:

“Article XXII

“In lines 10 and 11 strike out the words ‘or emission of forged papers’, and insert the word ‘forgery’.

“Same Article

“In lines 13 and 14 strike out the words ‘fraudulent bankruptcy’.

“Same Article

“In lines 17, 18, 19, strike out the words ‘or by persons hired or salaried, to the detriment of their employers’.”

The text printed here is the amended text as proclaimed by the President.

² For a detailed study of this treaty, including a discussion of its duration, see 7 Miller 223.

gation and of commerce, and a perfect reciprocity, based on principles of equity, equally beneficial to both countries, and applicable alike in peace and in war; have resolved to conclude a general Convention of amity, commerce, navigation and for the surrender of fugitive criminals.

For this purpose, they have respectively appointed Plenipotentiaries, to wit,

The President of the United States has appointed:

Robert Dale Owen, Minister Resident of the United States near His Majesty the King of the Kingdom of the Two Sicilies.

And His Majesty the King of the Kingdom of the Two Sicilies has appointed:

Don Lewis Carafa della Spina, of the Dukes of Traetto, weekly Major-domo of His Majesty, Commander of His Royal Order of Civil Merit of Francis the First; Grand Cross of the distinguished Royal Spanish Order of Charles the Third; Grand Officer of the Order of the Legion of Honor, Grand Cross of the Order of St. Michael of Bavaria; Grand Cross of the Florentine Order of Merit under the title of St. Joseph, Grand Cross of the Order of Merit of Parma under the title of St. Ludovico, Grand Cross of the Brazilian Order of the Rose, charged provisionally with the Portfolio of Foreign Affairs; and,

Don Michael Gravina e Requesenz, Prince of Comitini, his Gentleman of the Bedchamber in exercise, Chevalier Grand Cross of his Royal Order of Francis the First, invested with the Grand Cordon of the Order of the Legion of Honor, and the Grand Cross of the following Orders, namely of Leopold of Austria, of the Red Eagle of Prussia, of the White Eagle of Russia, of St. Maurice and Lazarus of Sardinia, of Dannebrog of Denmark, of Leopold of Belgium, and of the Crown of oak of the Low Countries, late his Minister Secretary of State; and,

Don Joseph Marius Arpino, Advocate General of the Grand Court of Accounts.

And the said Plenipotentiaries, after having exchanged their respective full powers, found in good and due form, have concluded and signed the following articles.

ARTICLE 1

It is the intention of the Two High contracting Parties, that there shall be, and continue through all time, a firm, inviolable and universal peace, and a true and sincere friendship between them, and between their respective territories, cities towns, and people, without exception of persons or places. But if, notwithstanding, the two nations should, unfortunately, become involved in war, one with the other, the term of six months from and after the declaration thereof shall be allowed to the merchants, and other inhabitants,

respectively, on each side, during which term they shall be at liberty to withdraw themselves, with all their effects, which they shall have the right to carry away, send away, or sell, as they please, without hinderance or molestation. During such period of six months their persons and their effects, including money, debts, shares in the public funds or in banks, and any other property, real or personal, shall be exempt from confiscation or sequestration; and they shall be allowed freely to sell and convey any real estate to them belonging; and to withdraw and export the proceeds, without molestation, and without paying, to the profit of the respective Governments, any taxes or dues other or greater, than those which the inhabitants of the country wherein said real estate is situated, shall, in similar cases, be subject to pay. And passports valid for a sufficient term for their return, shall be granted, as a safe conduct for themselves, their vessels, and the money and effects which they may carry or send away, against the assaults, and prizes which may be attempted against their persons and effects, as well by vessels of war of the Contracting Parties, as by their privateers.

ARTICLE 2

Considering the remoteness of the respective countries of the two contracting Parties, and the uncertainty resulting therefrom, with respect to the various events which may take place, it is agreed, that a merchant vessel belonging to either of them, which may be bound to a port, supposed, at the time of its departure, to be blockaded, shall not, however, be captured or condemned, for having attempted, a first time, to enter said port, unless it can be proved, that said vessel could, and ought to have learned, during its voyage, that the blockade of the place in question still continued. But all vessels, which, after having been warned off once, shall, during the same voyage, attempt, a second time, to enter the same blockaded port, during the continuance of the same blockade, shall thereby subject themselves to be detained and condemned.

By blockaded port is understood one into which, by the disposition of the Power which attacks it, with a proportionate number of ships sufficiently near, there is evident danger in entering.

ARTICLE 3

The High contracting Parties, in order to prevent, and avoid all dispute, by determining, with certainty, what shall be considered by them contraband in time of war, and as such cannot be conveyed to the countries, cities, places, or seaports of their enemies, have declared and agreed, that, under the name of contraband of war shall be comprised only cannons, mortars, petards, granades, muskets, balls, bombs, gun-carriages, gunpowder, saltpetre, matches; troops, whether infantry or cavalry, together with all that appertains to them; as also every other munition of war, and, generally, every species

of arms, and instruments in iron, steel, brass, copper or any other material whatever, manufactured, prepared and made expressly for purposes of war whether by land or sea.

And it is expressly declared and understood, that the merchandise above set forth as contraband of war, shall not entail confiscation, either on the vessel on which it shall have been loaded, or on the merchandise forming the rest of the cargo of said vessel, whether the said merchandise belong to the same or to a different owner.

ARTICLE 4

The citizens and subjects of each of the High contracting parties shall have free and undoubted right to travel and reside in the States of the other, remaining subject only to the precautions of police, which are practised towards the citizens or subjects of the most favored nations.

ARTICLE 5

The citizens or subjects of one of the High contracting Parties, travelling or residing in the territories of the other, shall be free from all military service, whether by land or sea, from all billeting of soldiers in their houses, from every extraordinary contribution, not general and by law established, and from all forced loans; nor shall they be held, under any pretence whatever, to pay any taxes or impositions, other, or greater, than those which are, or may hereafter be, paid, by the subjects or citizens of the most favored nations, in the respective States of the High contracting Parties. Their dwellings, warehouses and all premises appertaining thereto, destined for purposes of commerce or residence, shall be respected. No arbitrary search of, or visit to, their houses, whether private or of business, and no arbitrary examination or inspection whatever of their books, papers or accounts of trade shall be made; but such measures shall have place only in virtue of warrant granted by the judicial authorities. And each of the High contracting Parties expressly engages, that the citizens or subjects of the other, residing in their respective States, shall enjoy their property and personal security, in as full and ample a manner as their own citizens or subjects, or the citizens or subjects of the most favored nations.

ARTICLE 6

The citizens and subjects of each of the contracting Parties residing in the States of the other, shall be entitled to carry on commerce, arts or trade, and to occupy dwellings, shops and warehouses, and to dispose of their property of every kind, whether real or personal, by sale, gift, exchange, or in any other way, without hinderance or obstacle. And they shall be free to manage their own affairs themselves, or to commit those affairs to persons, whom they may appoint as broker, factor or agent; nor shall they be restrained in their choice of persons to act in such capacities; nor shall they be called upon to pay any

salary or remuneration to any person whom they shall not choose to employ. Absolute freedom shall, also, be given, in all cases, to the buyer and seller to bargain together, and also to fix the price of any goods or merchandise, imported into, or to be exported from, the States of either of the contracting Parties, save and except cases where the laws of the said States may require the intervention of special agents, or where, in either of the countries, articles may be the subject of a Government monopoly, as, at present in the Kingdom of the Two Sicilies, the Royal monopolies of tobacco, salt, playing cards, gunpowder and saltpetre.

It being expressly understood, however, that none of the provisions of the present Treaty shall be so construed as to take away the right of either of the High contracting Parties to grant patents of invention or improvement, either to the inventors or to others, and that the principles of reciprocity established by this Treaty shall not extend to premiums which either of the High contracting Parties may grant to their own citizens or subjects, for the encouragement of the building of ships, to sail under their own flag.

ARTICLE 7

As to any citizen or subject of either of the High contracting Parties dying within the jurisdiction of the other, his heirs, being citizens or subjects of the other, shall succeed to his personal property and either to his real estate or to the proceeds thereof, whether by testament or *ab intestato*; and may take possession thereof, either by themselves or by others acting for them; and may dispose of the same, at will, paying to the profit of the respective Governments such dues only as the inhabitants of the country wherein the said property is, shall be subject to pay, in like cases. And in case of the absence of the heir, or of his representatives, the same care shall be taken of the said property as would be taken, in like cases, of the effects of the natives of the country itself; the respective consular agents having notice from the competent judicial authorities of the day and hour in which they will proceed to the imposing or removing of seals and to the making out of an inventory, in all cases where such proceedings are required by law; so that the said Consular agent may assist thereat.

The respective Consuls may demand the delivery of the hereditary effects of their countrymen, which shall be immediately delivered to them, if no formal opposition to such delivery shall have been made by the creditors of the deceased, or otherwise, as soon as such opposition shall have been legally overruled. And if a question shall arise as to the rightful ownership of said property, the same shall be finally decided by the laws and judges of the land wherein the said property is. And the citizens and subjects of either of the contracting Parties in the States of the other, shall have free access to the Tribunals of justice of said States, on the same terms which are granted by the laws and usages of the country to native citizens or subjects; and they

may employ, in defence of their interests and rights, such advocates, attorneys, and other agents, being citizens or subjects of the other, as they may choose to select.

ARTICLE 8

There shall be, between the territories of the High contracting Parties, reciprocal liberty of commerce and navigation: and, to that effect, the vessels of their respective States shall mutually have liberty to enter the ports, places and rivers of the territories of each party, wherever national vessels, arriving from abroad, are permitted to enter. And all vessels of either of the two contracting Parties arriving in the ports of the other, shall be treated, on their arrival, during their stay, and at their departure, on the same footing as national vessels, as regards port charges, and all charges of navigation, such as of tonnage, lighthouses, pilotage, anchorage, quarantine, fees of public functionaries, as well as all taxes or impositions of whatever sort, and under whatever denomination, received in the name, and for the benefit, of the Government, or of local authorities, or of any private institution whatsoever, whether the said vessels arrive, or depart in ballast, or whether they import or export merchandise.

ARTICLE 9

The national character of the vessels of the respective countries, shall be recognized and admitted by each of the Parties, according to its own laws and special rules, by means of papers granted by the competent authorities to the captains or masters. And no vessels of either of the contracting Parties shall be entitled to profit by the immunities and advantages granted in the present Treaty, unless they are provided with the proper papers and certificates, as required by the regulations existing in the respective countries, to establish their tonnage and their nationality.

ARTICLE 10

The vessels of each of the High contracting Parties shall be allowed to introduce into the ports of the other, and to export thence, and to deposit and store there, every sort of goods, wares and merchandise, from whatever place the same may come, the importation and exportation of which are legally permitted in the respective States, without being held to pay other or heavier customhouse duties or imposts of whatever kind or name, other or of higher rate than those which would be paid for similar goods or products, if the same were imported, or exported in national vessels; and the same privileges, drawbacks, bounties and allowances, which may be allowed by either of the contracting Parties on any merchandise imported or exported in their own vessels shall be allowed, also, on similar produce imported or exported in vessels of the other Party.

ARTICLE 11

No priority or preference shall be given, directly or indirectly, by either of the contracting Parties, nor by any company, corporation or agent, in their behalf, or under their authority, in the purchase of any article of commerce, lawfully imported, on account of, or in reference to, the character of the vessel, in which such article was imported: it being the true intent and meaning of the contracting Parties, that no distinction or difference shall be made, in this respect.

ARTICLE 12

The principles contained in the foregoing articles shall be applicable, in all their extent, to vessels of each of the High contracting Parties, and to their cargoes, whether the said vessels arrive from the ports of either of the contracting Parties, or from those of any other foreign country; so that, as far as regards dues of navigation or of customs, there shall not be made, either in regard to direct or indirect navigation, any distinction whatever between the vessels of the two contracting Parties.

ARTICLE 13

The above stipulations shall not, however, extend to fisheries, nor to the coasting trade, from one port to another in each country, whether for passengers or merchandise, and whether by sailing vessels or steamers; such navigation and traffic being reserved exclusively to national vessels.

But, notwithstanding, the vessels of either of the two contracting Parties may load or unload, in part, at one or more ports of the territories of the other, and then proceed to any other port or ports in said territories to complete their loading, or unloading, in the same manner as a national vessel might do.

ARTICLE 14

No higher or other duty shall be imposed on the importation, by sea or land, into the United States, of any article, the growth, produce or manufacture of the Kingdom of the Two Sicilies or of her fisheries; and no higher or other duty shall be imposed on the importation, by sea or by land into the Kingdom of the Two Sicilies, of any article the growth, produce or manufacture of the United States, or their fisheries; than are, or shall be payable on the like articles the growth, produce or manufacture of any other foreign country.

No other or higher duties and charges shall be imposed, in the United States, on the exportation of any article to the Kingdom of the Two Sicilies, or in the Kingdom of the Two Sicilies on the exportation of any article to the United States, than such as are, or shall be, payable, on the exportation of the like article to any foreign country. And no prohibition shall be imposed on the importation or exportation of any article the growth, produce

or manufacture of the United States, or their fisheries, or of the Kingdom of the Two Sicilies and her fisheries from or to the ports of the United States or of the Kingdom of the Two Sicilies which shall not equally extend to every other foreign country.

ARTICLE 15

If either of the High contracting Parties, shall hereafter, grant to any other nation, any particular favor, privilege or immunity, in navigation or commerce, it shall, immediately, become common to the other party, freely, where it is freely granted to such other nation, and on yielding the same compensation, or a compensation as nearly as possible of proportionate value and effect, to be adjusted by mutual agreement, when the grant is conditional.

ARTICLE 16

The vessels of either of the High contracting Parties that may be constrained, by stress of weather, or other accident, to seek refuge in any port within the territories of the other, shall be treated there, in every respect, as a national vessel would be, in the same strait; provided, however, that the causes which gave rise to this forced landing are real and evident, that the vessel does not engage in any commercial operation, as loading or unloading merchandise, and that its stay in the said port is not prolonged beyond the time rendered necessary by the causes which constrained it to land: it being understood, nevertheless, that any landing of passengers, or any loading or unloading caused by operations of repair of the vessel, or by the necessity of providing subsistence for the crew, shall not be regarded as a commercial operation.

ARTICLE 17

In case any ship of war, or merchant vessel, shall be wrecked on the coasts or within the maritime jurisdiction of either of the High contracting Parties, such ships or vessels, or any parts thereof, and all furniture and appurtenances belonging thereto, and all goods and merchandise, which shall be saved therefrom, or the produce thereof, if sold, shall be faithfully restored, with the least possible delay, to the proprietors, upon being claimed by them, or by their duly authorized factors; and if there are no such proprietors or factors on the spot, then the said goods and merchandise, or the proceeds thereof, as well as all the papers found on board such wrecked ships or vessels, shall be delivered to the American or Sicilian Consul or Vice Consul, in whose district the wreck may have taken place, and such Consul, Vice Consul, proprietors or factors shall pay only the expenses incurred in the preservation of the property, together with the rate of salvage and expenses of quarantine, which would have been payable in the like case of a wreck of a national vessel; and the goods and merchandise saved from the wreck shall not be subject to duties, unless cleared for consumption; it being understood, that in case of

any legal claim upon such wreck, goods or merchandise, the same shall be referred for decision, to the competent tribunals of the country.

ARTICLE 18

Each of the High contracting Parties grants to the other, subject to the usual *Exequatur*, the liberty of having, in the ports of the other where foreign commerce is usually permitted, Consuls, Vice Consuls, and commercial Agents of their own appointment, who shall enjoy the same privileges and powers as those of the most favored nations; but if any such Consul, Vice Consul or commercial Agent shall exercise commerce, he shall be subjected to the same laws and usages to which private individuals of the nation are subjected in the same place. And whenever either of the two contracting Parties shall select for a consular Agent a citizen or subject of this last, such consular Agent shall continue to be regarded, notwithstanding his quality of foreign Consul, as a citizen or a subject of the nation to which he belongs, and consequently shall be submitted to the laws and regulations to which natives are subjected. This obligation, however shall not be so construed, so as to embarrass his consular functions, nor to affect the inviolability of the consular archives.

ARTICLE 19

The said Consuls, Vice Consuls and commercial Agents shall have the right, as such, to judge in quality of arbitrators, such differences, as may arise between the masters and crews of the vessels belonging to the nation, whose interests are committed to their charge, without the interference of the local authorities, unless the conduct of the crew, or of the Captain, should disturb the public peace or order of the country, or such Consul, Vice Consul or commercial Agent should require their assistance, to cause his decisions to be carried into effect, or supported. Nevertheless, it is understood, that this species of judgment or arbitration shall not deprive the contending parties of the right they have to resort, on their return home, to the judicial authorities of their own country.

ARTICLE 20

The said Consuls, Vice Consuls and commercial Agents, may cause to be arrested and sent back, either on board or to their own country, sailors and all other persons, who, making a regular part of the crews of vessels of the respective nations, and having embarked under some other name than that of passengers, shall have deserted from the said vessels. For this purpose, they shall apply to the competent local authorities, proving, by the register of the vessel, the roll of the crew, or, if the vessel shall have departed, with a copy of the said papers, duly certified by them, that the persons they claim formed part of the crew; and on such a reclamation, thus substantiated, the surrender of the deserter shall not be denied. Every assistance shall also be

given to them for the recovery and arrest of such deserters; and the same shall be detained and kept in the prisons of the country, at the request and cost of the Consuls, until the said Consuls shall have found an opportunity to send them away. It being understood, however, that if such an opportunity shall not occur in the space of four months from the date of their arrest, the said deserters shall be set at liberty, and shall not be again arrested for the same cause. Nevertheless, if the deserter shall be found to have committed any other crime or offense on shore, his surrender may be delayed by the local authorities, until the tribunal before which his case shall be pending, shall have pronounced its sentence, and until such sentence shall have been carried into effect.

ARTICLE 21

It is agreed that every person, who, being charged with, or condemned for, any of the crimes enumerated in the following article committed within the States of one of the High contracting Parties, shall seek asylum in the States, or on board the vessels of war, of the other party, shall be arrested, and consigned to justice, on demand made, through the proper diplomatic channel, by the Government within whose territory the offense shall have been committed.

This surrender and delivery shall not, however, be obligatory on either of the High contracting Parties, until the other shall have presented a copy of the judicial declaration or sentence establishing the culpability of the fugitive, in case such sentence or declaration shall have been pronounced. But if such sentence or declaration shall not have been pronounced, then the surrender may be demanded, and shall be made, when the demanding Government shall have furnished such proof as would have been sufficient to justify the apprehension, and commitment for trial, of the accused, if the offense had been committed in the country, where he shall have taken refuge.

ARTICLE 22

Persons shall be delivered up, according to the provisions of this Treaty, who shall be charged with any of the following crimes, to wit:

Murder (including assassination, parricide, infanticide and poisoning); attempt to commit murder; rape; piracy; arson; the making and uttering of false money, forgery, including forgery of evidences of public debt, bank bills and bills of exchange; robbery with violence, intimidation or forcible entry of an inhabited house; embezzlement by public officers, including appropriation of public funds; when these crimes are subject, by the Code of the Kingdom of the Two Sicilies to the punishment *della reclusione*, or other severer punishment, and by the laws of the United States to infamous punishment.

ARTICLE 23

On the part of each country the surrender of fugitives from justice shall be made only by the authority of the executive thereof. And all expenses whatever of detention and delivery effected in virtue of the preceding articles shall be at the cost of the Party making the demand.

ARTICLE 24

The citizens and subjects of each of the High contracting Parties, shall remain exempt from the stipulations of the preceding articles, so far as they relate to the surrender of fugitive criminals, nor shall they apply to offenses committed before the date of the present Treaty, nor to offenses of a political character, unless the political offender shall also have been guilty of some one of the crimes enumerated in Article 22.

ARTICLE 25

The present Treaty shall take effect from the day in which ratifications shall be exchanged, and shall remain in force for the term of ten years and further, until the end of twelve months after either of the High contracting Parties shall have given notice to the other of its intention to terminate the same; each of the said contracting Parties reserving to itself the right to give such notice, at the end of said term of ten years, or at any subsequent time.

ARTICLE 26

The present Treaty shall be approved and ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Majesty the King of the Kingdom of the Two Sicilies; and the ratifications shall be exchanged at Naples, within twelve months from the date of its signature, or sooner, if possible.

In faith whereof, the respective Plenipotentiaries have signed the foregoing Articles in the English and Italian languages, and have hereunto affixed the seals of their arms.

Done in duplicate at the City of Naples, this first day of October, in the year of our Lord one thousand eight hundred fifty five.

ROBERT DALE OWEN	[SEAL]
LUIGI CARAFA	[SEAL]
PRINCIPE DI COMITINI	[SEAL]
GIUSEPPE MARIO ARPINO	[SEAL]

DECLARATION

It having been stipulated in Article XI[11] of the Treaty of the first December 1845,³ that the red and white wines, of every kind, of the Kingdom of the

³ TS 363, *ante*, p. 1189.

Two Sicilies, including those of Marsala, which may be imported directly into the United States of America, whether in vessels of the one or of the other Country, shall not pay other or higher duties, than the red and white wines of the most favored nations; and in like manner, that the cottons of the United States of America which may be imported directly into the Kingdom of the Two Sicilies, whether in vessels of the one or of the other nation, shall not pay other or higher duties than the cottons of Egypt, Bengal or the most favored nations:

And it being agreed in the new Treaty concluded between the United States of America and the Kingdom of the Two Sicilies, and today signed by the Undersigned, not only that no duties of Customs shall be paid on merchandise the produce of one of the two Countries imported into the other Country, other or higher than shall be paid on merchandise of the same kind, the produce of any other country, but also, that, as to all duties of navigation, or of Customs, there shall not be made, as to the vessels of the two Countries, any distinction whatever between direct and indirect navigation:

The Undersigned declare, as to the construction of the new Treaty, from the day on which the ratifications thereof shall be exchanged, that the red and white wines, of every kind, of the Kingdom of the Two Sicilies, including the wine of Marsala, which shall be imported into the United States of America, shall not pay other or higher duties than are paid by the red and white wines of the most favored nations.

And, in like manner, that the cottons of the United States which shall be imported into the Kingdom of the Two Sicilies, shall not pay other or higher duties, than the cottons of Egypt, Bengal or the most favored nations.

The present Declaration shall be considered as an integral part of the said new Treaty, and shall be ratified, and the ratifications thereof exchanged, at the same time as those of the Treaty itself.

In faith whereof the Undersigned have hereunto set their hands, and affixed the seal of their arms.

Done in duplicate, in the City of Naples this first day of October, in the year of our Lord one thousand eight hundred and fifty five.

ROBERT DALE OWEN [SEAL]

LUIGI CARAFA [SEAL]

PRINCIPE DI COMITINI [SEAL]

GIUSEPPE MARIO ARPINO [SEAL]